

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY,

Plaintiff

v.

ADP MARSHALL, INC., a FLUOR DANIEL COMPANY, and
FIREMAN'S FUND INSURANCE COMPANY,

Defendants

) CIVIL ACTION
) NO. 04-CV-10203-PBS
)

ADP MARSHALL, INC.,

Plaintiff-in-Counterclaim,

v.

MASSACHUSETTS DEVELOPMENT FINANCE AGENCY,

Defendant-in-Counterclaim

ADP MARSHALL, INC.,

Third-Party Plaintiff

v.

ALLIED CONSULTING ENGINEERING SERVICES, et al.

Third-Party Defendants

**MOTION OF THIRD-PARTY DEFENDANT, SPAGNOLO/GISNESS &
ASSOCIATES, INC., TO STRIKE CERTAIN PORTIONS OF THE AFFIDAVIT
OF TOM HUGHES**

The Third-Party Defendant, Spagnolo/Gisness & Associates, Inc. ("SGA"),
respectfully requests that this honorable Court strike the Affidavit of Tom Hughes
included as an Exhibit to the Third-Party Plaintiff's Motion for Summary Judgment.

The Affidavit of Tom Hughes should be stricken because it contains statement not based on personal knowledge, hearsay, and fails to show that the affiant is competent to testify to matters stated therein. SGA further moves to strike from the Third-Party Plaintiff's Motion for Summary Judgment all arguments supported by the Hughes Affidavit as they do not comport with the requirements of Fed. R. Civ. P. 56(e). In further support of its Motion, SGA relies on its Memorandum filed herewith.

Respectfully submitted,
SPAGNOLO GISNESS &
ASSOCIATES, INC,
By its attorneys,



David J. Hatem, BBO # 225700
Warren D. Hutchison, BBO #246150
Carly B. Goldstein, BBO #654731
DONOVAN HATEM LLP
Two Seaport Lane
Boston, MA 02210
(617) 406-4500

CERTIFICATE OF SERVICE

I, Warren D. Hutchison, Esquire, hereby certify that on this 4th day of June, 2005, I served the attached *Motion to Strike Affidavit of Tom Hughes* by mailing a copy thereof, postage pre-paid to:

Andrew J. Tine, Esquire
Haese, LLC
70 Franklin Street, 9th Floor
Boston, MA 02210

John J. McNamara, Esquire
Domestico, Lane & McNamara, LLP
161 Worcester Road
Framingham, MA 01701

Edward F. Vena, Esquire
Vena, Riley, Deptula, LLP
250 Summer Street, 2nd Floor
Boston, MA 02210

Charles A. Plunkett, Esquire
Vena, Riley, Deptula, LLP
250 Summer Street, 2nd Floor
Boston, MA 02210

Dwight T. Burns, Esquire
Domestico, Lane & McNamara, LLP
161 Worcester Road
Framingham, MA 01701

Allen Whitestone
Black Cetkovic & Whitestone
200 Berkeley Street
Boston, MA 02116

Edward Coburn, Esquire
Taylor, Duane, Barton & Gilman, LLP
111 Devonshire Street
Boston, MA 02109

James J. Duane, Esquire
Taylor, Duane, Barton & Gilman
111 Devonshire Street
Boston, MA 02109



Warren D. Hutchison

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